

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA, : 17-CR-00123 (LAP)
: ORDER
: -----x
-against- :
: -----x
ROBERTO RAMIREZ, :
: -----x
Defendant. :
-----x

LORETTA A. PRESKA, Senior United States District Judge:

On July 17, 2019, Defendant filed his Motion [dkt. no. 720] seeking a sentence reduction under the First Step Act, First Step Act of 2018, Pub. L. No. 115-391, § 401, 402, 404, 132 Stat. 5194 (2018). The Government filed its Opposition on July 19, 2019 [dkt. no. 723], and Defendant submitted a reply on August 26, 2019 [dkt. no. 730].

Upon reviewing the parties' submissions, the Court finds that Defendant is not eligible for a reduction of sentence under the First Step Act for the reasons set forth in the Government's Opposition. Section 401 of the First Step Act is explicitly not retroactive to cases, like this one, where a sentence was already imposed as of the date of enactment of the Act. Further, Section 401 has no substantive application to Defendant's case because the Government did not lodge a prior felony information against him.

Section 402 of the First Step Act is also not retroactive and has no substantive application to the defendant's case.

Although Section 404 of the First Step Act gives retroactive application to the Fair Sentencing Act of 2010, that law was already in effect at the time of Defendant's sentencing, and he was sentenced in conformity with it. Thus, the retroactivity provision of the First Step Act has no application in this case. Defendant therefore is ineligible for the relief that he seeks.

Accordingly, Defendant's First Step Act Motion [dkt. no. 720] is denied.

SO ORDERED.

Dated: New York, New York
December 5, 2019


LORETTA A. PRESKA
Senior United States District Judge